

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE RAMIREZ,

Defendant.

Case No. 1:17-MJ-00168-SAB

ORDER DENYING STIPULATION TO
MODIFY TERMS OF PROBATION
PURSUANT TO 18 U.S.C. § 3563; FED. R.
CRIM. P. 32.1(C)

(ECF No. 50)

As relevant here, on February 20, 2020, Defendant was sentenced on a probation violation to serve thirty days of custody to be served intermittently on weekends and to self-surrender on March 20, 2020. (ECF Nos. 45, 46.) Defendant self-surrendered on March 20, 2020, and was directed to return on March 27, 2020. (ECF No. 48 at 1.) He served his first weekend detention on March 27, 2020. (*Id.*) On April 3, 2020, at the stipulation of the parties, an order was filed modifying the conditions of probation such that Defendant was not to serve any further weekends until October 2, 2020. (ECF No. 49.) Defendant was ordered to self-surrender on October 2, 2020 to begin serving his intermittent weekend sentence on consecutive weekends until he has served his thirty days of confinement. (*Id.*)

On October 13, 2020, a stipulation was filed to modify the terms of probation to continue the next self-surrender date to January 8, 2021. (ECF No. 50.) The parties do not address whether Defendant self-surrendered as ordered on October 2, 2020, but the Court assumes that

he has done so and has now served his weekend sentences on October 2, 2020; and October 9, 2020, as the failure to do so would be a violation of his probation which would have been brought to the attention of the Court.

Defendant seeks to extend the time for his self-surrender to January 2021, due to the COVID-19 pandemic. Defendant has been serving his sentence on consecutive weekends and fails to establish good cause to seek a continuance at this time. Review of the data cited by Defendant shows that at this time the number of reported cases have been and are continuing to decline with the current seven day average infection rate at 3.1 percent. See http://dashboard.publichealth.lacounty.gov/covid19_surveillance_dashboard/ (last visited 10/16/20). “Over the last seven days, officials have reported 7,484 new cases, which amounts to 74 per 100,000 residents.” <https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/los-angeles-county/> (last visited 10/16/20). Currently, the number of confirmed infections is doubling every **196.5 days**. (*Id.* (emphasis added).)

While Defendant argues that Los Angeles County remains in the red tier, the data shows that currently the infection rate is substantially lower than it has been over the last five months and it is probable with the onslaught of the flu season that conditions will be worse in January when Defendant seeks to serve his sentence.

Accordingly, IT IS HEREBY ORDERED that the stipulation to modify terms of probation is DENIED and Defendant shall report on October 16, 2020 to continue serving his weekend detention.

IT IS SO ORDERED.

Dated: **October 16, 2020**


UNITED STATES MAGISTRATE JUDGE